IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Girendra Daga Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.680/2005

DATE OF ORDER :: August 29, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Rakesh Arora, for the petitioner.

Mr.Ashok Upadhyaya, Public Prosecutor.
Mr.T.R.Singh Soda for complainant-non-petitioner No.2.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner seeks quashing of FIR No.104/2004, Police Station, Kotwali, Bhilwara for the offences under section 406, 420 and 120-B I.P.C.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State as also the counsel appearing for the complainant.

It is contended by the learned counsel for the petitioner that the author of FIR non-petitioner No.2 after filing the first information report, came to the conclusion that the averments made in the FIR were based on some misunderstanding and misconception to the extent that the affairs of the firm were being looked after by Manish Daga, who alleged to have expired in 2004 and, therefore, the complainant could not know the true facts of the occurrence and when both the parties sat together on persuasion of the responsible members of the society, the misunderstanding was cleared and parties have amicably settled the matter. He has filed an agreement in the form of compromise dt. 13.5.2005, which is on record.

Learned counsel for the complainant-non-petitioner No.2 submits that the instant FIR is outcome of some doubt and the misunderstanding between the parties with regard to the business transaction, which when the parties sat together was cleared and there remains nothing outstanding against the present petitioner and thus, the complainant does not wish to pursue the instant FIR any further and, therefore, if the FIR is quashed, the complainant has no objection.

From perusal of the FIR, it appears that the complainant non-petitioner No.2 is engaged in financing two wheelers

vehicles and the petitioner was appointed as its agent in 2003 and there were number of transactions between the parties. The FIR was lodged only on account that the account was not well settled by the non-petitioner No.2. From the averments made in the FIR, prima facie no criminal intent or dishonest or fraudulent intention appears. So far as criminal misappropriation is concerned, it was not entrustment on demand to be returned but it was the entrustment for further sale and, therefore, in my view the first information report on its plain reading does not make the essential ingredients of the offences alleged, more particularly, in view of the statement of the non-petitioner No.2 as also the agreement and an affidavit filed by the non-petitioner No.2 before this Court. In the circumstances, therefore, to allow the first information report or any investigation would be nothing but a futile exercise and, therefore, to secure the ends of justice, the FIR deserves to be quashed.

In the result, the petition is allowed. FIR No.104/2004, Police Station, Kotwali, Bhilwara is hereby quashed. Stay petition also stands disposed of.

[H.R.PANWAR],J.

m.asif/-